



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0074; Notice 2]

BMW of North America, LLC, Grant of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT).

ACTION: Grant of Petition.

SUMMARY: BMW North America, LLC,¹ a subsidiary of BMW AG (collectively referred to as BMW)², has determined that certain model year (MY) 2012 BMW X3 SAV multipurpose passenger vehicles (MPV) manufactured between April 1, 2011 and March 14, 2012, do not fully comply with paragraph S4.3.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less*. BMW has filed an appropriate report dated March 28, 2012, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

ADDRESSES: For further information on this decision contact Ms. Amina Fisher, Office of Vehicle Safety Compliance, the National

¹ BMW North America, LLC is a U.S. company that manufactures and imports motor vehicles.

² BMW AG is a German company that manufactures motor vehicles.

Highway Traffic Safety Administration (NHTSA), telephone (202)366-1018, facsimile (202)366-5930.

SUPPLEMENTARY INFORMATION:

I. BMW's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, BMW has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on October 16, 2012 in the Federal Register (77 FR 63415). One comment was received from Anne K. Mayer which supported granting BMW's petition. To view the petition, the comment and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2012-0074."

II. VEHICLES INVOLVED: Affected are approximately 1,409 MY 2012 BMW X3 SAV MPVs manufactured between April 1, 2011 through March 14, 2012.

III. RULE TEXT: Section S4.3.3 of FMVSS No. 110 specifically states:

S4.3.3 Additional labeling information for vehicles other than passenger cars. Each vehicle shall show the size designation and, if applicable, the type designation of rims (not necessarily those on the vehicle) appropriate for the tire appropriate for use on that vehicle, including the tire installed as original equipment on the certification label required

by part 567.4 or part 567.5 of this chapter. This information shall be in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and in the following format:

GVWR: 2,441 kilograms (5381 pounds).

GAWR: Front-1,299 kilograms (2,864 pounds) with P265/70R16 tires, 16 x 8.0 rims at 248 kPa (36 psi) cold single.

GAWR: Rear-1,299 kilograms (2,864 pounds) with P265/70R16 tires, 16 x 8.00 rims, at 248 kPa (36 psi) cold single.

IV. SUMMARY OF BMW'S ANALYSES: BMW explained that the noncompliance is that the certification label required by 49 CFR part 567 does not list rim information for the tires installed on the vehicles as original equipment as required by paragraph S4.3.3 of FMVSS No. 110.

BMW states that while the certification label required by 49 CFR part 567 does not contain tire and rim information for tires and rims that were installed as original equipment, the information pertains to tires and rims that are appropriate for use on the vehicles. BMW also argues that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. If a driver only checks the certification label (which indicates either 17-inch tires or 18-inch tires) or if the driver checks the certification label and the FMVSS No. 110 tire and loading information Vehicle Placard (which shows the size of the tires originally installed

on the vehicle), and is unsure as to the proper inflation pressure and the size of the tires installed on the vehicle, there are a number of information sources and services available which can be used to inform the driver of the correct tire size and tire pressure.

- a. A driver could check the specific tires installed on the vehicle. The information that is stamped onto the sidewall of those tires corresponds to the information contained on the FMVSS No. 110 tire and loading information Vehicle Placard. A driver would be able to determine that the tires installed on the vehicle correspond to the tires indicated on the FMVSS No. 110 tire and loading information Vehicle Placard. Therefore, a driver would be able to add the correct amount of air pressure to the tires in order to achieve the proper inflation level.
- b. If the driver were to use the tire size shown on the certification label in order to look up the associated tire pressure in the owner's manual and then pressurize the tires to that pressure the Tire Pressure Monitoring System would not need to initiate.
- c. The driver will also be able to refer to the vehicle's Owner's Manual which contains information

pertaining to the various tire sizes and tire pressures for the affected vehicles.

- d. BMW also offers Roadside Assistance and BMW Assist™ (only included with Premium Package and as a stand-alone option) which are available 24 hours/day with representatives that are available to provide drivers with all of the available tires sizes and specifications for the affected vehicles.

BMW has received no customer complaints and are unaware of any accidents or injuries regarding this noncompliance of the affected vehicles.

BMW has additionally informed NHTSA that it has corrected future production and that all other required markings are present and correct.

BMW also explains that NHTSA has previously granted similar petitions.

In summation, BMW believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

V. NHTSA ANALYSIS AND REASONING: The affected vehicles, 1,409 2012 BMW X3/SAVs (MPVs), comply with FMVSS No. 110, paragraph

S4.3 (c) and (d), identifying the recommended cold inflation pressures for the front, rear and spare tires and the tire size designations, respectively. The vehicles do not comply with paragraph S4.3.3, which requires additional information for vehicles other than passenger cars: the tires and rims must be identified on the 49 CFR part 567 certification label. BMW's certification label listed the tire and rim size for the front and rear axles as 245/50R18, which is different from the tires installed on affected vehicles, 245/45R19. Note: Information for these vehicles states they were sold with either 18-inch or 19-inch diameter tires.

BMW's FMVSS No. 110 vehicle placard listed size 245/45R19 for the front and rear tires with recommended inflation pressures 220 kPa/32 psi and 260 kPa/38 psi, respectively). The load ratings from the Tire and Rim Association Handbook at those pressures are 675 kg/1,488 lb (front) and 750 kg/1,673 lb (rear). Paragraph S4.2.2.2 specifies that the load rating for a passenger car tire used on an MPV be divided by 1.1. The sum of the front axle tire ratings are 1,227 kg/2,705 lb and the rear axle tires are 1,364 kg/3,007 lb. Tire size 245/50R18 at 220 kPa/32 psi (front) and 240 kPa/35 psi (rear-the maximum pressure listed) are rated at 745 kg/1,642 lb (front) and 775 kg/1,709 lb (rear). The resulting sums are 1,355 kg/2,987 lb (front) and 1,409 kg/3,106 lb (rear). In both cases, the sums of the tire

load ratings exceed BMW's GAWRs of 1,110 kg/2447 lb (front) and 1,290 kg/2,844 lb (rear).

Two additional factors were considered: the difference between the maximum inflation pressures of the two tire sizes and the effect of those pressures on the vehicle's tire pressure monitoring system, required by FMVSS No. 138.

The non-installed tires listed on the certification label have a maximum inflation pressure which is lower than the inflation pressure listed on the vehicle placard. If a consumer purchased replacement tires based on the 18-inch size listed on the certification label, he would also need to purchase rims of the same diameter. Even if the 18-inch diameter tires and rims were installed, each tire's maximum inflation pressure is still specified on the sidewall and listed in other documents available to tire dealers.

Regarding the TPMS, there is no adverse effect for either size front tires at 220 kPa/32 psi. The higher recommended inflation pressure of the installed 19-inch diameter rear tires corresponds to a required warning at 25 percent below the recommended pressure, i.e., at 195 kPa/28 psi. If the 19-inch diameter tires are replaced with 18-inch tires, the warning would be required at 180 kPa/26 psi, which is equal to a 19 percent under-inflation condition for those tires, exceeding the FMVSS No. 138 requirement.

VI. NHTSA DECISION: Thus, NHTSA has determined that BMW has met its burden of persuasion that the FMVSS No. 110 noncompliance of the tire size labeling on the subject vehicles' certification label is inconsequential to motor vehicle safety. Accordingly, BMW's petition is hereby granted, and BMW is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the 1,409 vehicles that BMW no longer controlled at the time it determined that a noncompliance existed. However, the granting of this petition does not relieve distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

AUTHORITY: (49 U.S.C. 30118, 30120: delegations of authority at
49 CFR 1.95 and 501.8)

ISSUED ON: December 11, 2013.

Claude H. Harris, Director,
Office of Vehicle Safety Compliance.

BILLING CODE: 4910-59-P

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